

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

AISHA PHILLIPS, et al.,

Plaintiffs,

v.

SELECT MANAGEMENT RESOURCES,
LLC; ANDERSON FINANCIAL SERVICES,
LLC; LOANMAX, LLC; LOANSMART, LLC;
KIPLING FINANCIAL SERVICES, LLC;
NORTH AMERICAN TITLE LOANS, LLC,

Defendants.

Case No.: 1: 19-cv-325-CCE-JEP

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF CAROLINA TITLE
LOANS, INC. AND FAST AUTO LOANS, INC. FOR LEAVE TO FILE AMICI CURIAE
BRIEF IN SUPPORT OF DEFENDANTS' RESPONSE IN OPPOSITION TO
PLAINTIFFS' MOTION TO STAY AND TO COMPEL ARBITRATIONS**

Carolina Title Loans, Inc. and Fast Auto Loans, Inc. (“CTL” and “FAL” or “Movants”) are South Carolina and Virginia companies engaged in the car title lending business, respectively. Movants submit that they can offer the Court an important out-of-state industry perspective regarding reasons why the Court should deny Plaintiffs’ Motion to Stay and Compel Arbitrations, and rather, address the constitutional issues which Movants believe are dispositive and would provide critical guidance for the entire out-of-state car title lending industry that lends money to North Carolina residents.

I. ARGUMENT

District courts have discretion whether to grant leave to file an amicus brief. *Jin v. Ministry of State Sec.*, 557 F. Supp. 2d 131, 136 (D.D.C. 2008); *see also Stuart v. Huff*, 706 F.3d 345, 355 (4th Cir. 2013) (noting that non-parties have the option to file amicus briefs in district

court proceedings and that such amici “often make useful contributions to litigation”). LR 7.5 of this Court provides that prospective amici must file along with the proposed brief, a motion that states the nature of movant’s interest, identify the parties supported, and set forth the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case. Local Rule 7.5(b).

A. INTEREST OF THE MOVANTS

Like Defendant¹ car title lending companies, Movants are South Carolina and Virginia companies engaged in the car title lending business, respectively, who both lend money to North Carolina residents who travel across the borders of North Carolina and enter into written loan agreements with each respective company. Movants are licensed and/or supervised to do business in each state in which they operate and are specifically authorized and/or permitted under their respective state’s laws to engage in the car title lending business. Like Defendants in the above-captioned case, Movants enter into loan agreements, which are governed by the laws of their respective state, with North Carolina residents. In addition, Movants’ loan agreements with its borrowers contain arbitration clauses that apply to certain disputes. Movants have been subject to similar claims that Plaintiffs have raised in the above-captioned case. Movants therefore have a keen interest in having these key threshold constitutional issues raised by Defendants as to the applicability or inapplicability of North Carolina law first addressed and ruled upon by the Court (rather than by an arbitrator) so that Movants, Defendants, and other out-of-state car title lending business that lend money to North Carolina residents have guidance and

¹ The term “Defendants” refers to the car title lending defendants in the above-captioned case. Movants understand that Defendant Select Management Resources, LLC and LoanMax, LLC are not operating as car title lending companies.

certainty regarding current loans outstanding with North Carolina residents and regarding the legality of lending money to North Carolina residents in the future.

B. THE MATTERS ASSERTED IN THE AMICI BRIEF ARE USEFUL AND RELEVANT AS TO WHETHER THE COURT SHOULD FIRST ADDRESS THE CONSTITUTIONALITY AND APPLICABILITY OF NORTH CAROLINA LAW ON THE OUT-OF-STATE LENDING TRANSACTIONS AT ISSUE AND THEREFORE DENY PLAINTIFFS' MOTION TO STAY AND TO COMPEL ARBITRATIONS

Movants seek leave to provide the Court with an important industry perspective regarding why the Court should first address the constitutionality and applicability of North Carolina law regarding out-of-state car title lenders like Defendants who happen to lend money to North Carolina residents. Movants believe that other out-of-state car title lenders who lend money to North Carolina residents share this view and are subject to similar claims that have been raised by Plaintiffs in this action. Movants agree with Defendants that the constitutional issue they have raised is a legal question and if resolved in favor of Defendants would extinguish Plaintiffs' claims. As a matter of judicial and litigation efficiency, this legal issue is best to be decided by this Court.

Movants further submit that they, along with all other out-of-state car title lenders who lend money to North Carolina residents, have a vested interest in this case and would be deeply impacted by the rulings that the Court may order in this case regarding whether the key threshold constitutional issue raised by Defendants is to be considered and resolved by this Court or handled in piecemeal fashion with hundreds, perhaps thousands, of individual arbitrations.

II. CONCLUSION

For the foregoing reasons, Movants respectfully ask that this Court grant the Motion for Leave to File Amici Curiae Brief.

Respectfully submitted, this the 18th day of June, 2019.

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CERTIFICATE OF SERVICE

I, Donavan J. Hylarides, hereby certify that on this day I electronically filed the foregoing **MEMORANDUM OF LAW IN SUPPORT OF MOTION OF CAROLINA TITLE LOANS, INC. AND FAST AUTO LOANS, INC. FOR LEAVE TO FILE AMICI CURIAE BRIEF IN SUPPORT OF DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO STAY AND TO COMPEL ARBITRATIONS** with the Clerk of Court using the CM/ECF system which will send notification of such filing to attorneys of record.

This the 18th day of June, 2019.

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